

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

THE UNITED STATES OF AMERICA,

PLAINTIFF

Vs.

CASE NO: 2:11-cr-00101-TFM

JOHN A. BROWNLEE, III,

DEFENDANT

MOTION TO RECONSIDER ORDER DISALLOWING RELEASE ON BAIL

AND NOW, come Defendant John A. Brownlee, III, by and through counsel, Leonard E. Sweeney, Esquire and files this Motion asking this Honorable Court to reconsider its order of court Disallowing Release of the Defendant on Bail in the he above matter and sets forth the following:

1. Defendant is charged in a one-count indictment with Violation of Title 18 U.S.C., Section 2252 (a) distribution of Material Depicting Sexual Exploitation of a Minor.
2. Defendant is currently incarcerated in a Federal facility in Ohio and was recently directed by this Honorable Court (McVerry, J.) to remain in custody without bond despite an earlier ruling by a Magistrate Judge authorizing release under stringent provisions.
3. Defendant was originally scheduled to be released from incarceration based on Magistrate Judge Swearingen's Order of release that contained stringent conditions of bail release.

4. The United States of America filed an Appeal to that Order of bail release (Motion for Reconsideration) and a substantial portion of their Motion for Reconsideration referenced an alleged lengthy history that the Defendant had molested his daughter when she was three years old and had engaged in sexual intercourse with her beginning at age 12 and continuing for a substantial period of time. A portion of that Motion referencing the foregoing is attached hereto as Exhibit “1”.

5. Counsel for the Defendant filed a Response to the Government’s Motion for Reconsideration setting forth that he was prepared to have the Defendant’s daughter testify and in effect totally vitiate those allegations of the United States Assistant Attorney as set forth in the Government’s Motion for Reconsideration.

6. Instead of scheduling a hearing on the matter of Reconsideration and the Response of the Defendant, the court (Judge McVerry) entered an Order sustaining the Appeal of the Government and denied the Defendant his constitutional right to bail. In the Opinion authored by the court, a central core of the court’s reasoning was that the conduct of the Defendant as to his daughter when she was three, and when she was 12, provided substantial evidence that the Defendant should not be released from bail. The portion of the court’s opinion referencing the foregoing is attached hereto as Exhibit “2”.

7. Attached is a verification sworn to by the Defendant’s daughter which asserts and avows that she was never molested, improperly touched or seduced by the Defendant at any time in her life, as alleged by the United States, and as opined and relied upon by this Honorable Court is appended hereto as Exhibit “3”.

8. Under the foregoing circumstances, a critical part of the reasoning of the United States of America to have the Defendant remain incarcerated and a critical portion of the court’s reasoning to continue to incarcerate the Defendant is laid waste and the Defendant’s right to

liberty as commanded by the United States Constitution provision regarding bail and case law affirming and protecting that right is being abridged.

9. This Honorable Court should err on the side of caution and at the very least allow the sworn statements of the Defendant's daughter to have substantial weight in reconsideration of the Defendant's right to bail and further should convince this court that a hearing on the merits of Defendant's right to bail with appropriate conditions is warranted.

Wherefore, Defendant prays that this Honorable Court enters an Order granting hearing on Defendant's request for reconsideration of bail release made in this Motion.

Respectfully Submitted,

/s/ Leonard E. Sweeney  
Leonard E. Sweeney, Esquire  
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